



MISSOURI HOUSE OF REPRESENTATIVES

REPORT OF
THE INTERIM COMMITTEE ON TAX EFFICIENCY

January, 2002

January 16, 2002

Mr. Speaker:

The undersigned members of the House Interim Committee on Tax Efficiency have completed their study of the various tax issues contained within your call and submits the following report:

Representative Harry Kennedy, Chair

Representative Dan Hegeman

Representative Jim Whorton, Vice Chair

Representative Jim Froelker

Representative Phil Smith

Representative Pat Secrest

Representative Joan Bray

Representative Shannon Cooper

Representative Chuck Graham

Representative Bob May

Representative Mike Daus

Mr. Speaker:

As directed, your Committee on Tax Efficiency has met to review:

1. The investigation and enforcement of applicable taxes as they relate to transient companies;
2. The reimbursement of incorrectly collected sales and use taxes;
3. The fairness and cost efficiencies of various tax exemptions; and
4. The feasibility of a sales tax holiday on back-to-school items in order to stimulate the retail economy.

Your committee met on two occasions to take public testimony and to develop findings of information related to your call. The Committee met on the following days:

November 13, 2001 - Trenton

November 16, 2001 - St. Louis

After public testimony and deliberation, the Committee proposes the attached recommendations for immediate action. The recommendations attempt to balance the need for governmental oversight with the need to stimulate a recessive economy and to allow business to thrive without excessive government intrusion.

I, together with the members of the House Interim Committee on Tax Efficiency, do hereby submit the attached report for your consideration.

FINDINGS OF THE HOUSE INTERIM COMMITTEE ON TAX EFFICIENCY

The House Interim Committee on Tax Efficiency recommends the following actions be taken related to the various issues based on the findings of the Committee:

I. Transient Contractor/Sub-Contractor compliance with state income tax withholding and workers compensation requirements.

Recommendation 1 - Strengthen current or pursue new reciprocal agreements with other states and the federal government to share information related to compliance with state and federal laws regarding income tax withholding and workers compensation coverage by transient employers and contractors headquartered within each other's borders.

Recommendation 2 - Evaluate the current level of appropriation to the Department of Revenue and the Department of Labor and Industrial Relations for funding investigative programs currently in statute that enhance the compliance with tax withholding and workers compensation coverage law on transient employers and other violators.

Recommendation 3- Request the Department of Labor and Industrial Relations to promote and publicize the telephone "hot line" for reporting possible violators of the workers compensation laws.

II. Refund of erroneously and unintentional over-collection of sales and use taxes.

Recommendation -Consider legislation that prioritizes the refund of over-collected sales and use taxes to the person or business that originally paid the taxes and to inhibit refunds of intentional over-collection of taxes directly by retailer or through consultants "for fee".

III. Sales Tax Holiday

Recommendation - Pursue legislation (subject to budget constraints) that enacts a short one-time sales tax holiday during the month of August limited to the purchase of articles of clothing at a certain price level. In addition, if the U.S. Congress passes a plan for reimbursement to states that enact a sales tax holiday, the General Assembly should immediately pursue implementing legislation that provides for the holiday. All proposals should include a method that reimburses local governments for loss of revenues from the enactment.

SUMMARY OF WITNESS TESTIMONY

November 13, 2001 -- Trenton City Hall -- Trenton, Missouri

1. Louis Seiter, Carpenters Local 110, St. Joseph

Mr. Seiter stated the current problem with the collection of income tax and workers compensation coverage mainly comes from non-union out-of-state construction workers and temporary service employees. Contractors are hiring these types of employees, but don't register or pay the appropriate withholdings and insurance. These employees are not being paid the prevailing wage and are taking jobs from Missourians who do comply with the laws. Mr. Seiter believes that the laws are in place to catch these individuals, but they are not being policed well enough.

2. Dick Christopherson, Ironworkers Local 10, Kansas City

Mr. Christopherson stated that in-state contractors are also a problem. They pay their employees as if they are independent contractors and do not withhold taxes or pay workers compensation, even though their relationship and oversight clearly would classify them as employees. Enforcement of the workers compensation law is weak. If more resources were put into catching those who cheat it would be cost effective as increased taxes would be collected. Illegal aliens are also becoming a huge problem in Missouri.

3. Frank Nurski, IBEW Local Union 545 Electrical Workers, St. Joseph

Mr. Nurski echoed Mr. Seiter's testimony. He stated that the contractors who cheat laugh at the state because of lack of enforcement. He stated that cheating takes place equally among government or private construction projects.

4. Cairo Potts, Teamsters Local 460, St. Joseph

Mr. Potts stated that the problem is truly state-wide, but seems excessively so in the northwest portion of the state. He stated that the State of Kansas seems to enforce the laws better than Missouri. He agreed that some of the problems could be dealt with locally, but prosecuting attorneys are too overwhelmed to handle the load.

5. Bob Darby, Citizen

Mr. Darby stated that he is a former employee of a workers compensation insurance company. He felt that if the insurance companies were notified of violators they could reject companies that

applied for insurance.

6. Gary Markenson, Missouri Municipal League

Mr. Markenson stated his organization's opposition to a sales tax holiday. Cities rely heavily on sales tax revenues for their operating budgets. He stated there are problems related to what is defined as clothing versus what is not. He recommended removing certain sales tax exemptions and lowering the general rate. This would make "brick and mortar" retailers more competitive with Internet sales for which no tax is charged. He also stated that reimbursement by the state to cities for lost revenue is difficult and not reliable. If times get tough for the state, he feels the reimbursement would be the first thing to go. He also stated his organization's support for the streamlined sales tax project currently being developed among the states.

7. Mike Morris, Missouri Department of Revenue

Mr. Morris stated that the Department of Revenue does not have an official position on the enactment of a sales tax holiday or on the refund of erroneously collected sales tax. He personally believes something should be done dealing with intentional over-collection of sales tax. He stated the Department has tried to simplify the tax collection process. He stated concerns with collection issues as they relate to a sales tax holiday, especially on small business. He stated the streamlined sales tax project is proceeding, but remains difficult. The Department would like to remain a voting member of the streamlined sales tax group to decide the final version of the proposal.

November 16, 2001 -- Bevo Mill -- St. Louis, Missouri

1. John Rowe, Bethesda Health Group

Mr. Rowe stated his company, Bethesda Health Group, is a 501 (c) (3) organization exempt from federal income taxes. They provide care to seniors in St. Louis by operating nursing homes and independent living centers. There is a move locally to remove their exemption on property taxes. The challenge centers around for-profit apartments being purchased by the company for not-for-profit purposes (independent living centers). He requested that Missouri statutes be clarified to exempt all charitable properties that are exempt from federal and state taxes. Losing the exemption could cost his company up to \$350,000 per year.

2. Susan Traylor Bittick and Joanne Creoisrat, May Department Stores

Ms. Bittick and Ms. Creoisrat expressed their company's support for a state sales tax holiday. They stated a tax holiday would stimulate the retail economy. Consumer confidence is currently at an eight year low. Additional revenue will be generated from sales of non-clothing merchandise while shoppers are out during the holiday. New York and Texas had great success with their sales tax holiday program. They stated their support for reimbursement of local

government for their lost revenue without a local option. The holiday should be limited to individual articles that sell for less than \$100.

3. David Overfelt, Missouri Retailers Association

Mr. Overfelt stated that his organization wants to remove the sales tax on over-the-counter medicines that are prescribed by a physician and to repeal the current exemption for over-the-counter medicines sold to persons with disabilities. His organization is in support of a sales tax holiday, but definitions must be clear and retailers will need time to implement the holiday. He stated that over-collections of sales tax should be given back to the person who originally paid the tax and not to the retailer or the state.

4. Jim Hathman and Joe Fultz, Contractors

Mr. Hathman and Mr. Fultz stated that failure to enforce tax and workers compensation requirements are a major problem in the construction industry. Contractors that do comply with the laws have a cost disadvantage and are losing contracts to those who don't comply. Transients are able to move in and out of the state before verifications and tax clearances work. The State of Missouri is losing a large amount of tax revenue in this industry. They stated enforcing the current laws on the books is more important than passing new laws. The problem is the enforcement.

5. Mike Morris, Missouri Department of Revenue

Mr. Morris stated that a sales tax holiday program must have solid and clear definitions. The Department would like to remain a voting member of the streamlined sales tax group to decide the final version of the proposal. The State Auditor brought up the issue of refunds of over-collected sales taxes last session. The Department may deny a sales tax refund to a company that had claimed a prior refund on the same issue.

Submitted Testimony

1. Ray McCarty, Missouri Chamber of Commerce

The Missouri Chamber of Commerce supports the concept of a sales tax holiday. The Chamber also supports changes in law relating to transient companies doing business in Missouri if the law levels the tax burden between instate and out-of-state businesses. The Chamber does not support any attempt to prevent retailers from obtaining refunds of accidentally over-collected taxes and does not support any expansion of the discretionary powers of the Department of Economic Development in the issuance of tax credits. The Chamber reserves further comment on review of tax exemptions by the legislature until the specific targeted exemptions are identified.